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STATUTORY INSTRUMENTS

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**2010 No. 490**

**The Conservation of Habitats and Species Regulations 2010**

**PART 4**

**ADDITIONAL PROTECTION OF HABITATS  
AND WILD ANIMALS AND PLANTS**

*Surveillance and monitoring*

**Surveillance of conservation status of habitats and species**

**48.**—(1) The appropriate authority must make arrangements in accordance with paragraphs (4) to (6) for the surveillance of the conservation status of natural habitat types of Community interest and species of Community interest, and in particular priority natural habitat types and priority species.

(2) In respect of the arrangements made by the Secretary of State under paragraph (1), the Secretary of State must, from time to time—

- (a) consult the devolved administrations;
- (b) provide the devolved administrations with such information as the Secretary of State considers appropriate that has been derived from the surveillance which has been arranged; and
- (c) review those arrangements and, if appropriate, revise them.

(3) In respect of the arrangements made by the Welsh Ministers under paragraph (1), the Welsh Ministers must, from time to time—

- (a) consult the Secretary of State and the other devolved administrations;
- (b) provide the Secretary of State and the other devolved administrations with such information as the Welsh Ministers consider appropriate that has been derived from the surveillance which has been arranged; and
- (c) review those arrangements and, if appropriate, revise them.

(4) The appropriate nature conservation body must—

- (a) assess how and to what extent surveillance of the conservation status of each relevant habitat and species is to be carried out, having regard to—
  - (i) whether a habitat or species is a priority natural habitat type or priority species, and
  - (ii) the conservation status of the habitat or species; and
- (b) advise the appropriate authority as to the need for such surveillance.

(5) The appropriate authority must ensure that the necessary surveillance is carried out on an ongoing basis.

(6) Surveillance for the purposes of this regulation may be carried out by—

- (a) a nature conservation body;

- (b) any other person acting pursuant to, and in accordance with, an agreement with the appropriate authority or a nature conservation body.
- (7) In paragraph (4), a “relevant” habitat or species means a habitat or species of a type referred to in paragraph (1).
- (8) In this regulation—
  - (a) “natural habitat types of Community interest” has the meaning given by Article 1(c) of the Habitats Directive; and
  - (b) “species of Community interest” has the meaning given by Article 1(g) of the Habitats Directive.

### **Protection of certain animals and plants from exploitation**

**49.**—(1) The appropriate authority must, as required in the light of information derived from surveillance arranged under regulation 48 or otherwise arranged for the purpose of Article 11 of the Habitats Directive, ensure that measures are taken for the purpose specified in paragraph (2).

- (2) The purpose is to ensure that—
  - (a) the taking in the wild of specimens of a species listed in Annex V to the Habitats Directive, and
  - (b) the exploitation of such specimens,

are compatible with the maintenance of that species at a favourable conservation status.

(3) Where measures are required under paragraph (1), the appropriate authority must make arrangements for surveillance for the purpose of establishing whether the taking in the wild of specimens of the species concerned, and the exploitation of specimens of that species, are compatible with the maintenance of that species at a favourable conservation status.

### **Monitoring of incidental capture and killing**

**50.**—(1) The appropriate authority must make arrangements in accordance with paragraphs (4) to (6) to establish a system to monitor the incidental capture or killing of animals of the species listed in Annex IV(a) to the Habitats Directive.

(2) In respect of the arrangements made by the Secretary of State under paragraph (1), the Secretary of State must, from time to time—

- (a) consult the devolved administrations;
- (b) provide the devolved administrations with such information as the Secretary of State considers appropriate that has been derived from the monitoring which has been arranged; and
- (c) review those arrangements and, if appropriate, revise them.

(3) In respect of the arrangements made by the Welsh Ministers under paragraph (1), the Welsh Ministers must, from time to time—

- (a) consult the Secretary of State and the other devolved administrations;
- (b) provide the Secretary of State and the other devolved administrations with such information as the Welsh Ministers consider appropriate that has been derived from the monitoring which has been arranged; and
- (c) review those arrangements and, if appropriate, revise them.

(4) The appropriate nature conservation body must, in relation to the species of animals listed in Annex IV(a) to the Habitats Directive which are found in England or Wales—

- (a) identify the risks of incidental capture and killing to which those species are subject, and the activities which give rise to such risks;
  - (b) maintain a record of instances of incidental capture or killing of animals of those species of which the nature conservation body are aware as a result of the surveillance carried out under regulation 48 (surveillance of conservation status of habitats and species), the monitoring carried out under this regulation or otherwise;
  - (c) assess to what extent monitoring of incidental capture and killing is needed, having regard to—
    - (i) the risks identified under sub-paragraph (a),
    - (ii) the instances of incidental capture or killing recorded under sub-paragraph (b),
    - (iii) whether the species is a priority species, and
    - (iv) the conservation status of the species; and
  - (d) advise the appropriate authority as to the need for such monitoring.
- (5) The appropriate authority must ensure that the necessary monitoring of incidental capture and killing is carried out.
- (6) Monitoring for the purposes of this regulation may be carried out by—
- (a) a nature conservation body;
  - (b) any other competent authority;
  - (c) any other person acting pursuant to, and in accordance with—
    - (i) an agreement with the appropriate authority or a nature conservation body, or
    - (ii) a condition of a licence or other authorisation granted by a competent authority.

### **Protection from incidental capture and killing**

**51.**—(1) The appropriate authority, as required in the light of information derived from monitoring arranged under regulation 50 or otherwise arranged for the purpose of Article 12(4) of the Habitats Directive, must make arrangements for further research for, or ensure that conservation measures are taken for, the purpose specified in paragraph (2).

(2) The purpose is to ensure that any incidental capture or killing of animals of a species listed in Annex IV(a) to the Habitats Directive does not have a significant negative impact on that species.